IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6378 OF 1998

Ms.Rachana Shashikant Champaneri.. Petitioner

Versus

State of Maharashtra & Ors. .. Respondents

Mr.R.K.Mendadkar for petitioner

Mr.C.R.Sonawane, A.G.P. for respondents.

CORAM : A.P.SHAH AND

S.C.DHARMADHIKARI, JJ.

DATE : 18TH OCTOBER 2004.

P.C.

Heard Advocates.

2. By the present petition, petitioner seeks

to impugn the order passed by respondent No.2, Scrutiny Committee dated 2nd June 1998 declining to consider petitioner's claim of belonging to Mochi on the ground that she is migrant from Valsad and she is not eligible to claim benefit of Scheduled Caste in State of Maharashtra as per G.R.dated 24th August 1995. The petitioner therefore, preferred W.P.2736 of 1998. The petition was allowed by the Division Bench by its order dated 18th June 1998. The Division Bench relying upon the judgement of the Supreme Court in the case of Action Committee on issue of Caste Certificates to Scheduled Castes and Scheduled Tribes in the State of Maharashtra and Anr. Vs. Union of India and Anr. reported in 1994 (5) S.C.C. 244 held that petitioner's caste claim cannot be rejected on the ground that she is migrant from the State of Gujarat. The Division Bench observed :-

> "..... As far as the petitioner is concerned she has passed 12th standard Examination with 92.66 per cent marks and she is an aspirant for admission to the

Medical ourse commencing in the academic year 1998-99. Petitioner's father was born in Valsad in 1947. He migrated to Bombay in 1965. Petitioner was born in Bombay on 14th November 1980. Petitioner's family has been residing in Bombay since 1965. As far as petitioner's caste Mochi is concerned, the same has been classified as a schedule caste vide Presidential Order issued on 10th August 1950. On that day Valsad was a part of the State of Bombay. Hence if the date of Presidential Order is taken into account the same will be applicable to the then State of Bombay which includes Valsad. Petitioner's father would thus be governed by the said order on the hypothesis that he was a resident of the then State of Bombay. Bifurcation of the State of Bombay in Gujarat and Maharashtra State was brought about with effect from 1st May 1960. The fact that Valsad forms part of State of Gujarat with effect from 1st May 1960 will not deprive the petitioner's father

> and petitioner from the benefits of the aforesaid Presidential order brought about on 10th August 1950."

In the light of the above observtion the matter was remanded back to the Scrutiny Committee for deciding the case on merits.

3. It appears, after remand the Scrutiny Committee again rejected the caste claim on the ground that the petitioner and her family must be treated as migrant in the State of Maharashtra. It is obvious that the Scrutiny Committee has not even cared to read the judgement of the High Court and without considering the merits of the case rejected the caste claim of petitioner on the very same ground which was set aside by the Division Bench earlier. In the circumstances, the order of the scrutiny committee cannot be sustained and the same is hereby quashed and set aside. The Scrutiny Committee is directed to issue caste validity certificate to petitioner within a period of two months from today. Rule is accordingly made absolute with no order as to costs.

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